

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 443 of 1989

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CONTINENTAL CONSTUCTION BALFOUR BEATTY

Versus

KETAN CONTRUSTION CO

Appearance:

MR KG SUKHWANI for Petitioner

SERVED for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 17/11/97

ORAL JUDGEMENT

1. Heard the learned counsel for the appellant.
Respondent is absent though served.

2. Without going into the merits of the matter and without discussing the merits of the impugned judgement and order, I am of the opinion that the interests of justice will not best be served by deciding the present matter on merits, particularly because the respondent is not present before this court. On the other hand

interests of justice will be served by directing the trial court to dispose of the pending suit as expeditiously as possible and in any case not later than 30th April 1998.

2. It is, however, observed that the appreciation of the material on record by the trial court at the stage of hearing of Exh.5, and the findings of fact recorded by the trial court in the impugned order can only be regarded to be on a prima facie basis, and only for the purpose of deciding Exh.5. Such appreciation of evidence and the findings recorded in the impugned order should not influence the trial court while deciding the suit on merits. The trial court shall decide the suit on merits only with reference to the totality of the evidence brought on record by the parties.

3. This appeal is accordingly disposed of with no order as to costs.

4. The registry is directed to forward the writ of this order to the trial court forthwith i.e. not later than 20th November 1997. Direct Service permitted.
